


GREENVILLE POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL		
Sub Chapter 104	Disclosure of Exculpatory Information	
Date Initially Effective 10/01/99	By The Order Of:  Hassan M. Aden, Chief of Police	
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104.1.1 PURPOSE AND DEFINITIONS

The Constitution entitles defendants in criminal trials to any exculpatory evidence in the possession of the State, including the Police Department, prior to trial. This rule applies in all criminal cases; state or federal, misdemeanor or felony. The policy of the Greenville Police Department is to provide the prosecutor, upon receipt of his request, any exculpatory information in the possession of the Police Department. Further, any Department employee who personally knows of exculpatory information which the defendant in a criminal case is entitled is responsible for providing that information to the prosecutor as early as possible. In all cases, the employee must make the disclosure before offering any sworn statement or testimony, irrespective of whether the prosecutor has requested the information.

Exculpatory Material

Exculpatory material is defined as any material which tends to show that the defendant did not commit the crime with which he is charged and any material which impeaches the prosecution's evidence or prosecution witnesses, including the police employees involved in the investigation of the crime. Exculpatory evidence includes evidence to:

- Support a defendant's alibi
- Show a person other than the defendant committed the crime
- Discredit a witness

Exculpatory material would also include any Police Department or City records containing credible evidence that a police employee involved in the investigation of the crime has:

- Been untruthful
- Prejudice or bias
- Committed a crime

The record need not show beyond a reasonable doubt that the involved employee has been untruthful , has a prejudice or bias, or has committed a crime. Rather to be subject to disclosure under this section, the record must contain credible evidence of one or more of the above three points.

The Prosecutor is defined as the person charged with the responsibility to prosecute the case, the United States Attorney, and the District Attorney.

104.1.2 RESPONSIBILITIES FOR DISCLOSURE TO THE PROSECUTOR

Employee

Any employee witness who has knowledge of exculpatory information must provide that information to the prosecutor prior to offering any sworn testimony or statement in the case. Employees will prepare a copy or summary of exculpatory information they disclose and must furnish this information to the prosecutor. The employee shall also maintain a copy of a detailed list of items turned over to the prosecutor. To establish that the employee disclosed the material in a timely manner and specifically what items were turned over, the employee should obtain a dated, signed receipt from the prosecutor.

All employees will attend training on the constitutional mandate to disclose exculpatory information and the effect failure to disclose exculpatory evidence has on the civil defense of qualified immunity.

Any employee who fails to properly disclose information or respond to requests from the prosecutor shall be subject to disciplinary action.

Department

The Police Department shall, on its initiative, send to the prosecutor the name of any officer whose personnel file contains exculpatory information that is required to be provided to a criminal defendant as BRADY material. Upon receipt of a request from the prosecutor, the Police Department will give the prosecutor all the exculpatory information in any case in which the prosecutor believes the named officer is a material witness. The Assistant City Attorney will conduct such inquiries as may be necessary to establish the existence of such records. All employees will promptly and completely respond to any requests for information made by the Assistant City Attorney.

The possible presence of exculpatory information in a particular file, standing alone, does not require an agency to alter its records retention schedule.

All information the Police Department furnishes to the prosecutor shall contain the following provisions:

This information is confidential personnel information, the improper disclosure of which is prohibited by North Carolina General Statute 160A- 168. The Police Department has provided this information to the prosecutor in a manner and for a purpose allowed by law. Any dissemination of this material not authorized by law is a misdemeanor. Examination by any person not authorized by law to examine this material is a misdemeanor.

Assistant City Attorney

The Assistant City Attorney shall be responsible for the release of information to the prosecutor and shall obtain a written agreement from the prosecutor that the information will be kept absolutely confidential unless ordered disclosed by a judge. Any information that is provided to the prosecutor and not ordered released by a judge shall be immediately returned to the Assistant City Attorney. All copies, if any, must also be returned.

The Assistant City Attorney must obtain a signed, dated receipt from the prosecutor that accurately and sufficiently identifies the information disclosed by the agency. The Assistant City Attorney must also retain on a file a copy of this General Order with a signed statement from the prosecutor that he/she has read its terms and that he/she agrees to assume and fulfill all obligations it imposes.